

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SELECT PORTFOLIO)
SERVICING, INC.,)
)
Plaintiff,)
)
)
 v.) 2:19-cv-00361-JDL
)
)
DAVID W. THOMAS, et al.)
)
)
Defendants, and)
)
)
INTERNAL REVENUE SERVICE,)
)
)
Party-in-Interest.)

ORDER ON MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS

On October 10, 2021, Defendant Donna M. Thomas filed a Motion for Partial Judgment on the Pleadings on Counts III, IV, and V (ECF No. 58) pursuant to Federal Rule of Civil Procedure 12(c). The deadline to file a response was November 1, 2021. Plaintiff Select Portfolio Servicing, Inc. did not respond.

District of Maine Local Rule 7(b) provides that a party who fails to object to a motion within 21 days is “deemed to have waived objection.” By failing to object, Select Portfolio has waived any objection to Thomas’s motion. A district court has the “discretion to dismiss an action based on a party’s unexcused failure to respond to a dispositive motion when such response is required by local rule, at least when the result does not clearly offend equity,” and may do so “without consideration . . . of [the motion’s] merits.” *NEPSK, Inc. v. Town of Houlton*, 283 F.3d 1, 7, 9 (1st Cir.

2002). Accordingly, Defendant Donna Thomas's Motion for Partial Judgment on the Pleadings on Counts III, IV, and V (ECF No. 58) is **GRANTED**, and Counts III, IV, and V of the Complaint (ECF No. 1) are **DISMISSED** as to both Defendant Donna M. Thomas and Defendant David W. Thomas.

SO ORDERED.

Dated: November 5, 2021

/s/ JON D. LEVY
CHIEF U.S. DISTRICT JUDGE